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ARTICLE

The Covent Garden Old Price Riots: Protest and Justice in Late-Georgian London

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This article explores perceptions of the law and of how agents of the law responded to events at Covent Garden Theatre during the bitter months between mid-October and late-November 1809, the height of the Covent Garden Old Price riots. It does so through the lens of the periodical press, a vital and voluminous source of not only what happened during the riots but also of opinions on what happened and of perceptions of what happened, opinions and perceptions that are the primary concern of this article. The article begins with a discussion of how the magistrates, 'police officers,' justices, and lawyers who together were agents of the legal system were seen, where they were seen, and what they did. It moves on to examine how the actions of those agents and the legal system they represented were reported upon. And it concludes with a discussion of how theatregoers and Londoners were seen to have responded to those actions, moving a significant element of the conflict outside of Covent Garden Theatre and into the public press in a direct response to how they were policed as threats to public order and security. It argues that the Covent Garden Old Price riots was a significant urban act of multi-class protest because of the ways that it intersected with wider late-Georgian concerns, with discursive arenas where British liberty and the freedom of her subjects were contested and at stake.

On 18 October 1809, a letter signed by 'MINIMUS' appeared in the *Morning Chronicle* newspaper, a London daily. It was one month since a rebuilt Covent Garden Theatre had reopened, an event that had been met in the nights thereafter with riotous opprobrium from sections of London's populace. The letter, as so many had since the Covent Garden Old Price riots began, concerned the ongoing dispute between 'the Public and the Management of Covent-Garden Theatre.' As the name 'Old Price' suggests, the riots were sparked by the dissatisfaction of London's theatregoers with the new price of admission to the theatre. As had been the case throughout the long eighteenth century, these theatregoers believed in the common ownership of theatre prices.¹ The price of admission to Covent Garden Theatre was especially significant because it was one of only two royal patent theatres sanctioned to stage five-act spoken word drama within Westminster, even though, in reality, the Lord Chamberlain's jurisdiction extended to the whole of London and its environs.² As Drury Lane, the other part of this patent duopoly, had burnt down on 24 February 1809, the situation in mid-September was that the only patent theatre available to theatregoers was the reopened Covent Garden Theatre and that the barrier to entering this theatre had increased.

By the time MINIMUS wrote to the *Morning Chronicle*, the supporters of Old Prices (commonly known as 'OPs') had developed a panoply of complaints against the beleaguered Covent Garden Theatre management. These included an architectural redistribution of the theatre with new private boxes for the wealthy offset by a restricted and remodelled one-shilling gallery for the less well-off, the suspicion that the management had hired Jewish pugilists to suppress the nightly riots inside the theatre, the selection of expensive foreign actors as lead players, claims of financial mismanagement and embezzlement, the heavy-handedness of the Bow Street 'Police' called in to handle disturbances, and the criminal charges brought against OPs for

¹ For the moral economy of theatre pricing, see an entry into James Boswell's journal (F. Pottle [ed.], *Boswell's London Journal, 1762–3* [New Haven, 1950], 219) where a pseudo-fictional 'citizen' of Child's coffee-house muses 'I remember when the common price of new plays was sixpence, and no more.'

² R. D. Hume, 'Theatre as Property in Eighteenth-Century London,' *Journal for Eighteenth Century Studies* 31.1 (2008); H. McPherson, 'Theatrical Riots' and Cultural Politics in Eighteenth-Century London,' *The Eighteenth Century* 43.3 (2002); D. Worrall, *Theatrical Revolution: Drama, Censorship and Romantic Period Subcultures, 1773–1832* (Oxford: Oxford University Press, 2006), pp. 33–102.

such spurious crimes as having sung, whistled, or sneezed during a performance. In short, the OPs were, by 18 October, rioting not because of an increase in admission price by itself but rather because of a perceived affront to their freedoms and associated customary rights as 'Free-Born Englishmen.'³ They were loyalists rather than radicals, pragmatists rather than theoreticians affronted, as they saw it, by the actions of a theatre management in league both with agents of state justice and with wealthy elites.

However, MINIMUS did not, as many OPs had and would, use his letter to address these issues directly. Instead his purpose was to share with the public a passage from the farce *Eurydice Hiss'd*, written circa 1740 'by that able Lawyer, upright Magistrate, and learned man, Henry Fielding, Esq. who was at the time he wrote it an eminent Barrister, and afterwards placed at the head of the Police of the City of Westminster.' The selected passage reads thus:

DRAMATUS PERSONA

PILLAGE, the Manager. – HONESTUS

PILLAGE – O, on me ye Gods bestow the pence,

And give your fame to any fools you please!

HONESTUS – Your love of pence sufficiently you show,

By raising still your prices on the Town.

PIL – The Town for their own sakes those prices pay,

Which the additional expenses demands.

HON – In former times,

When better Actors acted better Plays,

The Town paid less.

³ The concept of the 'Free-Born Englishman' has a long heritage, stretching back to the seventeenth century and the Levellers. It was revived in 1790s in response to restrictions to freedom and erosions of privacy imposed on Britons as a consequence of the French Revolutionary Wars, not least the suspension of *habeus corpus* in 1794. See J. Barrell, *The Spirit of Despotism: Invasions of Privacy in the 1790s* (Oxford: Oxford University Press, 2006); G. Cruikshank, *A FREE BORN ENGLISHMAN! THE ADMIRATION OF THE WORLD!!! AND THE ENVY OF SURROUNDING NATIONS!!!!* (1819; British Museum Satires 13287A); B. Hilton, *A Mad, Bad, and Dangerous People?: England 1783–1846* (Oxford: Oxford University Press, 2006), pp. 65–74.

PIL – We have more actors now.

HON – Ay, many more, I'm certain, than you need,
 Make your additional expence apparent.
 Let it appear quite necessary too,
 And then perhaps they'll grumble not to pay.

PIL – What is a Manager whom the Public rule?

HON – The servant of the Public, and no more;
 For tho' indeed you see the Actors paid,
 Yet from the people's pockets come the pence;
 They therefore should decide what they
 Will pay for. [Exit HONESTUS]

PILLAGE, Solo – I wish I could have gain'd one honest
 Man over to my side —————
 But since the attempt is vain,
 Numbers must serve for worth: the vessel sails
 With equal rapid fury and success,
 Borne by the foulest tide as clearest stream.

Every OP would have understood this choice of passage and could have related to its focus on prices and pay, on managerial extravagance and profiteering, on conflict over the 'ownership' of theatrical space. As MINIMUS himself noted with a hint of self-congratulation it was 'so applicable to the point at issue' not only with regards to what it had said but who had said it. That MINIMUS chose to quote a 'Lawyer, [...] Magistrate, [...], Barrister, and [...] head of the Police,' and one of such esteem, suggests that the law and those charged with its defence were integral to the discourses that surrounded the Covent Garden Old Price riots.⁴

⁴ Henry and his elder brother John Fielding were both well known figures for their roles as magistrates, indeed Henry has established the Bow Street office in 1749. See J. M. Beattie, *The First English Detectives: The Bow Street Runners and the Policing of London, 1750–1840* (Oxford: Oxford University Press, 2012); J. White, *London in the Eighteenth Century: a Great and Monstrous Thing* (London: Bodley Head, 2012), pp. 424–465.

Letters addressing the events at Covent Garden Theatre were published in newspapers throughout autumn-winter 1809 and continued until after the cessation of hostilities in January 1810. They were published because readers were fascinated with the Covent Garden Old Price riots, sixty-seven nights of protest often collectively referred to as the OP war. This demand is evident in the response of the major London dailies (*Morning Chronicle*, *Morning Post*, *The Times*) and weeklies (*Examiner*), who, catering for diverse metropolitan and provincial opinions, responded to these outbursts of collective action in a timely and voluminous manner.⁵ Reports from the theatre, the Bow Street magistrates, other judicial venues or the streets appeared in most issues and related notices, advertisements, and letters from both readers and the Covent Garden Theatre management were just as common. News of events at Covent Garden Theatre was not restricted to the capital. Old Price riots-inspired tumult reached Chester and Birmingham in October 1809 and Edinburgh's *Caledonian Mercury* published semi-regular summary reports on the riots.⁶ Nevertheless, it was in London that the riots and accompanying reportage were most prominent.

The wealth of newspaper reports surrounding the OP riots is contrasted sharply with the paucity of official accounts. A complete loss of the records compiled at Bow Street means that periodical sources are in most cases our only record of events at the magistrates' court during the riots.⁷ The present article, therefore, presents

⁵ Hannah Barker's model of newspapers as commercial entities is useful here, for it helps to explain why some newspapers carried varied, opposing, and often wholly contradictory opinions on the OP war within their pages (even if their editorial lines remained consistent). In sum, the discursive business of newspaper proprietors (that beyond their role as forums for advertisements) was less to pursue a polemical line and more to appeal to potential readers and purchasers of their newspapers; H. Barker, *Newspapers, Politics And English Society, 1695–1855* (Harlow: Longman, 2000).

⁶ For the former pair, see A. Aspinall (ed.) *Dorothy Jordan, Mrs. Jordan and Her Family: Being the Unpublished Correspondence of Mrs. Jordan and the Duke of Clarence, Later William IV* (London: Arthur Barker, 1951), pp. 118–120.

⁷ Beattie, *First English Detectives*. Though a significant loss, given the brevity of comparable records (see Greg Thomas [ed.], *Summary Justice in the City: A Selection of Cases Heard at the Guildhall Justice Room, 1752–1781* [London: London Record Society, 2013]) and that Bow Street encouraged lengthy press reports of its proceedings, the lost case notes may well have amounted to only short summaries. In addition to evidence in newspapers, publications on the OP riots did appear after the cessation of hostilities, notable among which is Thomas Tegg's *The Rise, Progress, and Termination of the O. P. War, in Poetic Epistles* (London: Thomas Tegg, 1810).

findings from a detailed survey of newspapers published in London during autumn 1809, in particular between mid-October and late-November, weeks characterised by bitter struggle. Within these, disaggregating the fact, opinion, and perception that the newspaper press traded in is fraught with danger. On those occasions when newspapers are used as factual sources of events, I have made attempts to corroborate stories between contemporary newspapers and with the judgement of subsequent scholarship. However, even if the newspapers failed to capture with precision all that happened during the Covent Garden Old Price riots, they nevertheless are vital to reconstructing opinions and perceptions of the law and the legal system at this time.

I The OP Riots in Scholarship

Scholars have cautiously explored these sources before and their use to explore the Old Price riots is familiar to historians of English theatre in the long eighteenth century. Marc Baer's book-length treatment of the conflict, *Theatre and Disorder in Late Georgian London*, argues that the OP war is important because rioting Londoners defeated fashionable elites, because of the substantial if restrained confrontational spirit of the middle-class Londoners prominent in the campaign, and because the conflict offered a prism through which contemporaries could shine light on wider social ills.⁸ Jane Moody, writing on the falling significance of patent theatres in the late eighteenth-century, inserts the OP war into a narrative of public rejections of legitimate theatre.⁹ Yet, the volume and breadth of coverage allocated to the war by London newspapers suggests it deserves greater historiographical attention than it has received. Peter Spence, for example, draws the OPs into his history of 'Romantic Radicalism,' stresses their loyalism, and ponders how soon such a coordinated, prolonged, and voluminous reported episode was quietly forgotten.¹⁰

⁸ M. Baer, *Theatre and Disorder in Late Georgian London* (Oxford: Clarendon Press, 1992).

⁹ J. Moody, *Illegitimate Theatre in London, 1770–1840* (Cambridge: Cambridge University Press, 2000).

¹⁰ P. Spence, *The Birth of Romantic Radicalism: War, Popular Politics, and English Radical Reformism, 1800–1815* (Aldershot: Ashfield, 1996). The conflict does not feature, for example, in either John Stevenson, *Popular Disturbances in England, 1700–1870* (London: Longman, 1979) or John Stevenson, *Popular Disturbances in England, 1700–1832* (London: Longman, 1992).

This wider scholarly inattention, Spence aside, can be partly explained by the fact that the OP war was neither an isolated nor unprecedented theatre riot. Theatre protest was intertwined with long eighteenth-century multi-class metropolitan political expression and theatre-going in this period was not the passive, solemn experience we take for granted today. In these lively, volatile metropolitan spaces the justification for and exclusiveness of new theatre pricing regimes, the resentment of theatre monopolies, and the suspicion of impositions along class lines had been issues before. As Hannah McPherson writes, ‘the precariousness of the social contract between management and public’ was tested over forty years earlier during the 1763 Half-Price Riots at Drury Lane and Covent Garden.¹¹ Earlier still, David Garrick was forced to withdraw the 1755 Drury Lane Chinese Festival in response to riots in and outside the theatre. 1743, 1750, 1770, and 1776 saw comparable, violent protests at Drury Lane, throughout which theatregoers debated the value and purpose of the patent system. McPherson concurs with Baer that long eighteenth-century theatre audiences were microcosms of society and that the clashes between fashionable elites and a multi-class public suspicious of novelty can be fruitfully projected back onto wider London and – to a lesser extent – English society in this period.

Broadly speaking, I agree with this thesis. I expand on it by bringing much needed attention to how agents of the legal system, broadly and loosely defined, were represented and responded to during this prolonged theatre riot, offering another thread out of the world of public entertainments and into the more commonly experienced world of public justice.

This is achieved by exploring newspaper evidence through considerations of protest, space and policing. The Old Price riots were one of a panoply of events in the long eighteenth-century when Britons turned to protest as a means of defending customary constructions of liberty, physical and discursive acts that could, as Robert Poole reminds us, elide form and argument.¹² In ‘What happened to class?’ Katrina

¹¹ McPherson, ‘Theatrical Riots,’ 7.

¹² R. Poole, ‘The March to Peterloo: Politics and Festivity in Late Georgian England,’ *Past and Present* 192.1 (2006).

Navickas stresses the potential for reading collective action through the interaction between elites and non-elites.¹³ As the following makes clear, class interaction – in particular a multi-class rejection of perceived elite chicanery – was a crucial feature of the OP war. Moreover, the interactions between the theatre management, their patrons, the legal establishment, and the London public tease at two further areas Navickas seeks to bring to the centre of protest historians' endeavours: those occasions where collective action was a 'vibrant defence of common interests against the perceived intrusion of private property and atomizing capitalism' and the extent to which policing practices shaped protest.¹⁴

The language of 'perceived intrusion[s]' remind us that protests are inherently spatial: lines are drawn, spaces are ascribed owners, places are reified. Prior to the OP war, space had been controversially used at sites of public entertainment at the whim of the aristocracy. Protests at the exclusive character of the 1784 Handel commemoration underscore the contemporary non-elite conception that theatres were classless public spaces.¹⁵ In *Geographies of Exclusion*, David Sibley examines the socio-political connection between groups and spaces: 'spatial boundaries,' he writes, 'are in fact moral boundaries.'¹⁶ Sibley's discussion of how societies respond to acts of border crossing, when one group moves beyond 'their' domain – an imaginary space with physical boundaries or signifiers of boundaries – and to border erection (whether imaginary, symbolic, or physical) chime with the events at Covent Garden Theatre in autumn 1809: the removal of the cheapest section of the house, the one shilling gallery, to a 'pigeon hole' on high; the expansion of private boxes and the enclosure from prying eyes of areas only affordable to the elite; and the cessation of sales of half-price tickets after the third act, a custom that had hitherto opened up the theatre to a multitude – if not the very poorest – of Londoners and made the space egalitarian in its usage. In short, many OPs who entered Covent Garden

¹³ K. Navickas, 'What happened to class? New histories of labour and collective action in Britain,' *Social History* 36.2 (2011).

¹⁴ Navickas, 'What happened to class?' 201.

¹⁵ W. Weber, 'The 1784 Handel Commemoration as Political Ritual,' *Journal of British Studies* 28 (1989).

¹⁶ D. Sibley, *Geographies of Exclusion* (London: Routledge, 1995), p. 39.

Theatre in late-September 1809 saw the new space as false, as abnormal. As Sibley writes, 'the act of drawing a line in the construction of discrete categories interrupts what is naturally continuous. It is by definition an arbitrary act and thus may be seen as unjust by those who suffer the consequences of division.'¹⁷ In the suffering eyes of the OPs, not only were the lines drawn before September 1809 natural and lines drawn thereafter arbitrary, but those who had undertaken and supported the redrawing – John Philip Kemble, the theatre management, urban elites, and the legal establishment – were outsiders; or, to use Sibley's parlance, an 'out-group' whose boundary crossing and redrawing presented a threat to core values of the Covent Garden crowd. Private boxes, for example, were novel, constructed zones of ambiguity whose mechanics – private, hidden, aloof, seemingly beyond reproach – upset values the OPs saw as central to London theatregoing, to see and to be seen in a public theatre, open exchange, and the equality of all under the law.

To understand how policing shaped protest and how spatial politics intersected with notions of legal equality, attitudes to enforcement and policing prior to the OP war must be taken into account. The establishment of the Bow Street runners and court in 1749-50 by Henry Fielding had a lasting impact on the reputation of metropolitan policing.¹⁸ Hitherto, thief-takers – individuals who solved crimes and restored property in exchange for a reward – had been the visible expression of after-the-fact legal enforcement in the capital. If corruption and clandestine activities among thief-takers were rife, the pre-trial examinations before Bow Street magistrates of individuals seized evolved, by contrast, into a public spectacle held in an open court.¹⁹ These examinations made ideal newspaper copy and that copy is, in turn, our only substantive record of those examinations. In his analysis of how policing was reported in London newspapers between 1747 and 1755, a crucial period in their mutual development, Richard M. Ward argues that the newspapers established a

¹⁷ Sibley, *Geographies of Exclusion*, p. 35.

¹⁸ Beattie, *First English Detectives*; P. King, *Crime, Justice, and Discretion in England, 1740–1820* (Oxford: Oxford University Press, 2000); R. M. Ward, *Print Culture, Crime and Justice in Eighteenth-Century London* (London: Bloomsbury, 2014), p. 145.

¹⁹ Ward, *Print Culture*, pp. 38–9, 152.

strong relationship with these new agents of the legal system and, in turn, presented a broadly positive image of their conduct, probity, and fairness until at least the end of the century.²⁰ In contrast, reports, letters, and notices on the OP war published in the newspaper press were characterised – on balance – by a sustained negative portrayal of the agents of the legal system. This does not undermine Ward's thesis: press perceptions and public perceptions were not one and the same and prior to 1809 it was not uncommon to find negative portrayals of policing in newspapers and other forms of print.²¹ Nevertheless, it is important to observe that published attitudes to policing during the OP war run contra to the tenor – broadly speaking – of reports just a decade or two earlier.

Finally, and in light of this observation, any investigation into opinions and perceptions of the OP war must also consider the status of metropolitan policing at the time of the OP war, in particular the Bow Street officers and patrol, at whose offices so many OPs appeared in the autumn of 1809. As part of the machinery of criminal justice, Bow Street was an instrument of state power.²² This machinery was particularly conspicuous in late-Georgian London, as radical reform movements – inspired by the French Revolution – provoked alarm among the English political establishment, alarm that manifested itself as efforts to preserve social order. This culminated in the 1792 Middlesex Justices Act, which established seven public 'police' offices across the metropolis. Though these were modelled more or less on Bow Street, Bow Street was not mentioned in the act and remained a separate entity. As the historian John Beattie argues, in the years after 1792 the Home Office exploited the flexible and informal standing of Bow Street to transform its function, funding new tasks needed to head off the perceived threat of insurrection.²³

²⁰ Ward, *Print Culture*, pp. 115, 141, 152–6.

²¹ An argument made in J. M. Beattie, *Policing and Punishment in London, 1660–1750* (Oxford: Oxford University Press, 2001).

²² See Joanna Innes and John Styles, 'The Crime Wave: Recent Writing on Crime and Criminal Justice in Eighteenth-Century England,' *Journal of British Studies* 25 (1986), 380–435.

²³ Beattie, *First English Detectives*, pp. 167–205.

The Bow Street foot patrol, distinct in conception from the more investigative and national Bow Street runners, was expanded. The foot patrol took on the role of maintaining public order, of keeping the peace in the streets and at public gatherings such as fairs and markets. It was these men, commonly – if erroneously – referred to in newspapers as ‘officers,’ who patrolled Covent Garden Theatre during the OP war, arrested those who contravened a state influenced notion of public order, and brought those arrested to Bow Street for examination. Moreover, the long-standing relationship between Bow Street and the management of Covent Garden Theatre should not be understated. Located on each other’s doorstep, the theatre was the largest place of public entertainments in Bow Street’s area of traditional (if never-formalised) jurisdiction and the organisational relationship between the two entities was no doubt deepened by the royal security role Bow Street officers played after 1789, namely accompanying the king and royal family to places of public entertainments, such as the royal patent theatres. More than any other of the new functions that Bow Street undertook on behalf of a jittery Home Office after 1792, their policing of the OP war blended their roles as guardians of national security and guardians of public order. The suspicion OPs came to hold towards the motives of Bow Street suggest that negative portrayals of the agents of the legal system and these new roles and functions of Bow Street circa 1809 were not unrelated.

It is in the context of these multiple scholarly traditions – of theatre history and protest history, of human geography and the history of policing – that this article explores where the law was seen to be visible, how it was reported upon, and how its actions were responded to during the OP war. The article discusses how contemporary Londoners were said to have encountered the magistrates, ‘police officers,’ justices, and lawyers who together, however informally connected, were agents of the legal system, where these agents were seen, and what they did. It moves on to examine how the actions of those agents and the legal system they represented were reported upon. It concludes with a discussion of how members of the public responded to those actions. Drawing on contemporary periodicals for opinions on and for perceptions of what happened, I argue that the Covent Garden Old Price riots

were a significant urban conflict because of the ways that the riots intersected with wider late-Georgian concerns, with discursive arenas where the liberty of free-born Englishmen and women were contested and at stake.

II Agents of the Legal System

At the completion of the programme of events planned for 18 September 1809, two magistrates stood before the Covent Garden Theatre crowd. The rendition of *Macbeth* offered by John Philip Kemble's troupe had been drowned out by the whistles, shouts, calls, songs, and stamps of the paying audience. Magistrates Read and Nabes were called the short distance from the Bow Street magistrates' office to read the Riot Act. The crowd did not disperse promptly and, as they had begun, closed their performance with stirring renditions of 'God Save the King' and 'Rule, Britannia!' As befitted such an occasion, the scene was captured by satirical artist-engravers and sold in print shops across London. One design by Isaac Cruikshank and his son George is as evocative as it is erroneous: a number of details – including the bells, rattles, banners, and horns wielded by the theatre crowd were not seen until the following night.²⁴ These fictions do not preclude the use of Cruikshank's design by the historian. Cruikshank's intention to broadly represent sights common in the pit both on and after the opening night highlights the visibility of officers of the law during the OP conflict. This section explores that visibility, representations of agents of the legal system during the OP war, the means by which those agents expressed themselves, and their opinions on the disturbances at Covent Garden Theatre during the autumn of 1809.

After the calamity of the opening night, Bow Street officers patrolled the corridors of Covent Garden Theatre and continued to do so into the new year.²⁵ At the behest

²⁴ I. Cruikshank and G. Cruikshank, *ACTING MAGISTRATES committing themselves being their first appearance on this stage as performed at the National Theatre Covent Garden. Sepr 18 1809* (1809; British Museum Satires 11418). For the function of reportage in satirical prints published during the OP War see J. Baker, 'The OP War, Libertarian Communication and Graphic Reportage in Georgian London,' *European Comic Art* 4.1 (2011).

²⁵ *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.0), 21 February 1810, trial of Abraham Hart and Edward White (t18100221-108).

of the doorman, James Brandon, they were tasked with dealing with disturbances in order to keep order. During the OP war, the sight of one of these men, or men from other 'police' offices, was the primary recorded interaction between Covent Garden theatregoers and the legal system. For example, on Saturday, 11 November, Lewis Vanduduce was arrested by 'Mr. Bell, the High Constable for the Holborn Division.'²⁶ The direct identification of the arresting officer here was an exception; rarely were they named by newspapers and this partial anonymity had negative consequences.²⁷ During times of heightened tension, such as in late-October 1809, suspicious OPs questioned the identity of constables and elided them, by virtue of their actions, with the independent and unscrupulous thief-takers thought to have been common in the mid-eighteenth century.²⁸

The second group of legal officials who regularly appeared at the theatre were not there to arrest OPs, but to develop a rapport with them, and drum up business, by addressing the audience from the pit and galleries on points of law. For instance, following an address from Kemble on 20 September, an attorney and a barrister rose to speak. Each sought to clarify the owner-actor's attempts at conciliation from a legal, outwardly impartial, and yet clearly pro-OP perspective.²⁹ Once the 'Police,' 'constables,' or 'officers' from Bow Street identified a disturbance, they would attempt an arrest and, if successful, take their prisoner to Bow Street. Here, at the Bow Street magistrates' court, the theatregoing public interacted with the legal system for a third time, on this occasion before both appointed guardians of the law and formal agents of the legal system. Reports from Bow Street at the time of the OP conflict mention the Bow Street magistrates Graham, Nabes, and Read. Arrests from

²⁶ *The Times*, 13 November 1809.

²⁷ The fact that Brandon tended to speak for the prosecution at Bow Street means few other names are mentioned with regards to arrest. Indeed the ire OPs developed against the Covent Garden doorman meant that most testimonies for the defence addressed Brandon directly, except in cases where one member of the audience arrested another and brought them to Bow Street. Reports do make mention of witnesses for the prosecution, though it is rarely clear if they were constables or hired-hands.

²⁸ *Morning Chronicle*, 17 October 1809; *The Times*, 23 October 1809.

²⁹ *The Times*, 21 September 1809.

Covent Garden Theatre dominated their business and forced them, on days of noted tumult, to work 'till midnight,' 'till past twelve o'clock,' and on the fiftieth day since the theatre reopened – the OP Jubilee – 'from a little after eight o'clock' until one the next morning.³⁰ Moreover, whilst it was typical for one magistrate to work the OP cases each night, on occasions when there were many cases to be heard more than one presided over accusations of wrongdoing in the theatre.

From the courthouse, to the gaol, to the hanging tree, scholars of the long eighteenth century have a well-developed notion of the potentially fluid boundaries between public spaces and spaces of state justice, confinement, and power.³¹ During the OP war this fluidity was reinforced by the openness with which newspapers reported the proceedings at Bow Street and the correlations made between activities in the Covent Garden Theatre pit, boxes, and galleries each night with decisions reached by the magistrates. However, an incident on Saturday 25 November problematises this contemporary narrative of judicial openness. On this night 'Mr. EAGLE, a barrister' was brought before Graham 'charged with assaulting Read, one of the patrol.' The alleged assault took place when Eagle had attempted to enter the Bow Street court, for he presumed that it was a public space. In the reported summary of his remarks, Graham made it clear that this was not the case. 'It was a mistaken notion,' Graham states, 'that that was a public Court, as they were not sitting in judgement, but merely inquiring whether the matters complained of were fit to go before a public Court or not.'³²

Some agents of the legal system appeared aware that a spatially restricted Bow Street could be detrimental to their cause. John Stafford, Chief Clerk of Bow Street, issued public proclamations on the OP war, both as notices posted in public places

³⁰ *The Times*, 11 October, 13 November, 27 November 1809.

³¹ J. M. Beattie, *Crime and the Courts in England, 1660–1800* (Oxford: Oxford University Press, 1986); D. Hay et. al. (eds), *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England* (London: Allen Lane, 1975); T. Hitchcock, R. Shoemaker, C. Emsley, S. Howard, and J. McLaughlin, et al. *The Old Bailey Proceedings Online, 1674–1913* (2012), available at <http://www.oldbaileyonline.org>, version 7.0 [Last accessed 4 December 2014]; P. Linebaugh, *The London Hanged: Crime and Civil Society in the Eighteenth Century* (Cambridge: Cambridge University Press, 1992).

³² *The Times*, 27 November 1809.

and in newspapers.³³ Justice Mainwaring sought to address a broad public in presiding comments made during the October Westminster Quarter Sessions. A month later the Attorney General, Sir Vicary Gibbs, expanded on this line of reasoning during an address from the Court of King's Bench.³⁴ The public character of the sessions held at Westminster Hall by the Lord Chief Justice were a counterpoint to the ambiguous status of Bow Street. Nevertheless, charges of conspiracy against these men, from constables to the Attorney General, became integral to the OP protest. One reason for this was the conspicuous absence from the OP war of the Lord Chamberlain, who oversaw the patent held by Covent Garden Theatre, and parliamentarians. Evidently, this troubled the OPs and perhaps in consequence one jovial Shakespearean placard raised in the pit pleaded to a higher authority still: 'Angels and Ministers of Grace,' it read, 'defend us from this imposition.'³⁵

In these varied arenas, agents of the legal system expressed themselves in many ways. In the theatre, they arrested perceived troublemakers on both sides, often for assault, and tore down placards affixed to boxes, railings, and balconies. By early October 1809, it was commonplace for the possession and use of horns or bells within the theatre to provoke an attempt at arrest, as was the distribution of handbills among the audience. Outside the theatre, they sought to restrict comparable activities. James Andrews was arrested and brought to Bow Street by James Brandon on 10 October for having distributed a handbill 'in the avenues leading to the Theatre.' The handbill accused Kemble of having offered free admissions to Covent Garden Theatre to a group of Jewish pugilists led by the noted boxer Dan Mendoza.³⁶ Exacerbated by policing, the spaces that surrounded the theatre soon played host to a fierce discursive battle. Here, ephemera in support of the OPs competed with proclamations from Bow Street 'posted about the streets, expressing,' according to *The Examiner* of 15 October, 'the determination of the Magistrates to prevent the breach of the

³³ *The Times*, 16 October 1809.

³⁴ *Examiner*, 29 October 1809; *The Times*, 21 November 1809.

³⁵ *The Times*, 22 September 1809.

³⁶ *The Times*, 11 October 1809; *The Morning Chronicle*, 11 October 1809; *Examiner*, 15 October 1809.

peace by rioting at the Theatre.’ In response to these proclamations, OPs amended their behaviour so as to avoid arrest, and, in response to this change in behaviour, officers again amended their grounds for arrest. The consequence was that arrests in the pit, the corridors, the gallery, the one-shilling gallery, and the private boxes of Covent Garden Theatre continued unabated. As the protest moved into November 1809, men and women were brought before the Bow Street magistrates charged with having caused or incited disturbance, riot, and tumult for singing ‘God Save the King,’ using rattles, blowing whistles, gesturing, walking about, sneezing loudly, and wearing the words ‘O.P’ or ‘N.P.B’ (No Private Boxes) in their hats.

When arrested, men and women were brought to Bow Street, and there the magistrates expressed themselves by demanding bail. Bail ranged from £100 to £500, plus sureties – normally the same amount paid by two individuals – for the release of the accused. If no bail was present or forthcoming, the accused was committed, regardless of the gravity of the offence. Mary Austin, for example, was committed ‘for want to bail’ on Monday 16 October for little more than use of a rattle. Bow Street magistrates also offered advice to those who came before them. Having been the subject of a scuffle in defence of her honour on 14 November, Mrs Hewetson ‘appeared,’ *The Times* reported the next day, ‘in the course of the examination [...] a constant frequenter of the Theatre, and very zealous on the part of the Proprietors. As her object in visiting it certainly could not be to hear the play, it was suggested that she might with more propriety stay at home.’ Ten days earlier, Magistrate Graham acquitted John Winholt of hissing during the performance and found against his accuser George White for rough treatment. Nevertheless, Graham cautioned Winholt not to repeat his assertion that he would the following night take pistols to the theatre as a means of self-defence, for if he did the court ‘must be under the necessity of advising him to find bail to keep the peace.’³⁷

Few attempts at keeping order were planned and when planning did take place it tended to be *ad hoc* at best. On Wednesday 18 November, the *Morning Chronicle* reported a speech from a naval officer who had been active in the pit for some days.

³⁷ *The Times*, 6 November 1809.

‘What!’, he proclaimed, ‘are Englishmen struggling against injustice to be bullied by hired ruffians – to be beaten down by the very dregs and refuse of the twelve tribes.’ Applause rang around the theatre accompanied by a call of ‘Take care of him.’³⁸ Clearly the OPs feared that having made a connection between ‘hired ruffians’ and theatrical tyranny in a public venue, that the naval officer had crossed a line. They were right, for as they carried the orator from the theatre in triumph to a coffee house on Cecil-street, they were followed, unbeknown to the naval officer and his supporters, by John Smith ‘one of the patrol belonging to the [Bow Street] office.’ Once the naval officer’s supporters had left, Smith seized him and brought him to Bow Street. Here, after ‘considerable difficulty,’ Read and Graham discovered he was in fact an assistant druggist by the name of Samuel Dudfield. Dudfield was ordered to find bail of £200 and two sureties of £100 each.

Not all those ordered to find bail at Bow Street went on to face a Grand Jury at the Westminster Quarter Sessions. Of those that did fewer still had bills of indictment found against them. At the 28 October Sessions, forty-two OP related bills of indictment were put forward of which only seventeen were found. That twenty-five bills were considered not worthy by a Westminster jury placed strain on the impartiality of Bow Street’s interpretation of public order. The position of the legal establishment was that the disturbances at Covent-Garden Theatre were illegal. Indeed, in the days that lead up to the October Sessions, the courts had begun to attach the notion of conspiracy to their complaints against OPs.³⁹ These actions recall national security alarms from the 1790s. Reports from the sessions record Justice Mainwaring’s insistence that the jury were to consider the bills of indictment with respect to points of law rather than any sense of OPs possessing a right to protest or to resist oppression.⁴⁰ In spite of the jury not finding in most cases in favour of Mainwaring, arrests and charges against OPs continued, and the offences for which OPs were charged indicate a belief that OP was a dangerous and threatening conspiracy. In November 1809,

³⁸ *The Times*, 19 November 1809.

³⁹ *The Times*, 26 October 1809.

⁴⁰ *Examiner*, 29 October 1809.

a number of theatregoers were arrested for nothing more than having worn the letters 'O.P.' in their hats. Others were brought to Bow Street for offences as trivial as having ran, elevated placards, or used indecent language.⁴¹

The actions and expressions of men such as Mainwaring overwhelmingly suggest that they saw OP as both a threat to public order and a conspiracy.⁴² Once the Attorney General Sir Vicary Gibbs entered the affair from the Court of King's Bench on 20 November, the latter position was entrenched. Gibbs agreed with affidavits that justified the rise in admission prices, allegations of a conspiracy against Covent-Garden theatre, suggestions that wearing the letters 'O.P.' and raising placards in the theatre were riotous conduct, and that the barrister Henry Clifford was their ring-leader. He used the strongest possible hyperbole in order to situate the disturbances within the history of protest in London: the OP disturbances were, he argued, 'the greatest riots that had every disgraced the Metropolis.'⁴³ Greater even it seems than the infamous and calamitous Gordon Riots.⁴⁴

III 'The Police last night ascended amongst the Gods' – Reporting the Legal System

The existence of physical and discursive interactions between agents of the legal system and the OPs, and the details of those interactions, were widely reported. Editorials went further and described the consequences of legal activities in Covent-Garden Theatre, Bow Street, and the London courts. They included reports of proclamations, arrests, and trials, and reveal a concern for three issues: the definition of a crime,

⁴¹ The legal system did on many occasions work to the advantage of the OPs. A Jewish pugilist, presumed to have been hired by the Covent Garden Theatre management, was prosecuted at Bow Street on 10 November (*The Times*, 11 November 1809). John Winholt, an OP who visited the magistrates' office on over four occasions in Autumn 1809, had on 22 November a hat returned to him that had been stolen whilst he protested at Covent Garden Theatre (*The Times*, 23 November 1809).

⁴² Henry Hoskins, who appeared at the Old Bailey on 1 November 1809 charged with highway robbery, went so far as to use his reluctance to accompany his accuser to Covent Garden Theatre 'because his intention was to kick up a row in the house' as evidence of his good character. It is tempting, if unsubstantiated, to suggest that given the magistracy's distate for the OPs that this played a part in his acquittal. *Old Bailey Proceedings Online*, 1 November 1809, trial of Henry Hoskins (t18091101-45).

⁴³ *The Times*, 21 November 1809.

⁴⁴ I. Haywood and J. Reed (eds.), *The Gordon Riots: Politics, Culture and Insurrection in Late Eighteenth-Century Britain* (Cambridge: Cambridge University Press, 2012).

the definition of a criminal, and inconsistencies in legal application. This section focuses on the latter concern, by far the most common complaint during the autumn 1809 phase of the Old Price riots.

When, on the first night of the OP war, the Bow Street magistrates read the Riot Act, this neither alarmed nor dispersed the audience, and because the situation was a legal anomaly, the reading was never repeated. The audience had, after all, paid to assemble and the audience were assembled in a space which held a patent licence to hold public entertainments. What was, *The Times* asked on 21 September 1809, the legality of bringing those who had expressed 'marks of disapprobation at a public theatre' before a magistrate? As a consequence, reports on legal proceedings for the first few nights indicate a cautious and conservative response from agents of the legal system; property crimes, a mainstay of long eighteenth-century crime and justice, formed the bulk of Bow Street cases reported on 19 September.⁴⁵ The editorial reflections on these arrests were similarly cautious, concerned with class politics as much as the veracity of crimes for which theatregoers were being accused. 'Police Officers,' *The Times* commented, were 'very awkwardly situated, many of the persons whom they have taken into custody being men of respectability.'⁴⁶ Given these tensions, hostility toward the actions of Bow Street was rare at this time – the *Morning Chronicle*, though supportive of the protesters, balked at censoring officers; *The Times*, fearful of an escalation of violence, called for the protesters to boycott the theatre, and the *Morning Post*, as it would throughout the conflict, cheered on the management, the magistrates, and the heavy hand of the law.

Matters began to change in early-October 1809 as the theatre management, who had up until this time appealed to the legal establishment to keep order, began to take the law into their own hands in an attempt to quell the protests. *The Times*

⁴⁵ A single arrest from the opening night was tried at the Old Bailey. William Dyer was brought to the court accused of stealing a handkerchief at the door to the Covent Garden Theatre pit. Dyer was arrested by his accuser John Goodyear. He was found guilty and sentenced to a shilling fine and imprisonment for one year. *Old Bailey Proceedings Online*, 20 September 1809, trial of William Eakins Dyer (18090920-69).

⁴⁶ *The Times*, 21 September 1809.

noted on 5 October that on the previous night 'it was with pain we observed' hired hands acting for the management. The paper reiterated its resignation five days later and conflated the officers of Bow Street with a panoply of trouble-makers: the pit, they commented, 'appeared a second Babel' with 'Jews, Turks, Hibernians, Bow-Street Officers, pugilists, pickpockets, all jumbled together.'⁴⁷ It is notable that the OPs are not mentioned as part of this group. The next day, whilst *The Times* was battling away accusations from theatregoers that it sided with the management, the *Morning Chronicle* made first mention of a complaint that would become a feature of reporting on the conflict: the inconsistency of arrest and the apparent tendency of Bow Street to arrest only the opponents of the theatre management.⁴⁸

By mid-October, the management were accused of suppressing a multi-class and inter-gender protest by the unethical employment of 'the vilest miscreants known in the metropolis to trample on its peaceable inhabitants.'⁴⁹ The metropolitan newspapers were highly sensitive to any perceived complicity on the part of the legal system. Leigh Hunt's *The Examiner*, a reform inclined London weekly, noted on 15 October that:

A Proclamation from Bow-street has been posted about the streets, expressing the determination of the Magistrates to prevent the breach of the peace by rioting at the Theatre. – They should, however, have commenced by ordering into custody that ferocious set described above, who not only have broken the peace, but who went to the Theatre for that express purpose.

If Hunt was concerned that the law had targeted the wrong side, comparison of reports from the theatre and from Bow Street suggest the legal system had certainly targeted *one* side. The *Morning Chronicle* described the atmosphere in Covent Garden Theatre on 13 October as boisterously contemptuous towards the proprietors' means

⁴⁷ *The Times*, 10 October 1809.

⁴⁸ *Morning Chronicle*, 11 October 1809.

⁴⁹ *Morning Chronicle*, 13 October 1809.

of intimidation,' that is, their use of hired Jewish pugilists.⁵⁰ The *Chronicle* claimed to have seen more placards than on any night since the beginning of the conflict, many of which were explicitly anti-Semitic ('The Covent-Garden Synagogue – MENDOZA the Grand Rabbi'; 'BISH, the Detector of Fraud v MENDOZA, the Leader of hired Pugilists'; 'Shall Britons be subdued by the wandering tribe of Jerusalem?'). A report in *The Times* on 14 October 1809 described in detail the violent turn the evening took:

Theatrical criticism is now converted into the record of gladiatorial brutality and Bow-street conviction [...] no sooner was the war-whoop sounded, than the most ferocious, and apparently predetermined, contests took place in every part of the house, and particularly in the boxes. Neither the remonstrances of the peaceable, nor the distress of the female part of the audience, had the least influence on the conduct of the combatants.

Readers of this report might well have concluded that on 13 October offences took place on both sides; and *The Times'* ambiguous use of 'combatants' might well indicate editorial caution. Yet, a clearly one-sided picture emerged in the subsequent reports on the arrests and convictions of theatregoers who protested and resisted Jewish pugilists that night. Thomas Higham, a servant, was unsuccessfully charged by George Jones, one of the box-keepers at Covent-Garden Theatre, for having waved his hat and exhibited papers marked 'Jew or Gentile' and 'Covent-garden Synagogue' from the two-shilling gallery. The seventeen-year-old Robert Winduld was charged with having waved in the pit a sign that read 'Covent-garden Rabbi.' Morris Thomas, 'a gentleman of respectability,' was charged (and acquitted) with having breached the peace by 'hooting, hissing, and kicking.'⁵¹ John Soane of Lincoln's Inn Fields was convicted of having shouted and banged his fists.⁵²

⁵⁰ *Morning Chronicle*, 14 October 1809.

⁵¹ *The Times*, 16 October 1809; *Morning Chronicle*, 16 October 1809.

⁵² This John Soane is not to be confused with the famous architect John Soane.

There are three plausible reasons for this discrepancy in reports on activities in and outside Covent Garden Theatre on 13 October: either OPs were targeted for arrest; *The Times*, the *Morning Chronicle*, et al. selectively reported arrests of OPs; or these papers' initial reports of the tumult falsely imagined (for reasons of propriety, caution, inattention, or otherwise) a scene of conflict where in fact it was one of OP-led riot. All these interpretations are plausible, yet for our purposes it is important to note that the metropolitan newspapers (the *Morning Post* excepted) presented in their editorial judgements a narrative of injustice. When Morris Thomas was discharged, *The Times* quoted Magistrate Graham as having stated that 'he saw no ground for charging him with any unlawful expression of his sentiments in the Theatre.'⁵³ The *Morning Chronicle* report of the same day went further and chose to include in its editorial an attack on Thomas' treatment that did not directly pertain to the case at hand:

Submitted to the consideration of the Magistrates the injustice and arbitrary interposition of the Police Officers, to prevent the exercise of fair opinion of the audience, respective the performances in the Theatre, as a conduct which was completely subversive of the rights of Englishmen in a British Theatre. He did not deny that he had hissed and hooted at the performance, on the contrary, he avowed that he did so, from a principal of unbiased judgement. As, however, the charge was brought forward, he must insist in meeting it in the open day. He had been dragged ignominiously out of the Theatre, in a manner so rudely, that the most outrageous conduct on his part would not have warranted.⁵⁴

Four days later, the *Morning Chronicle* began a report of an arrest in the one-shilling gallery with sarcasm: 'The Police,' they wrote, 'last night ascended amongst the Gods.' Having established a narrative of selective arrest, the OP-supportive newspapers not only reported instances where legal processes were not applied universally but also

⁵³ *The Times*, 16 October 1809.

⁵⁴ *Morning Chronicle*, 16 October 1809.

used suggestive and impartial language to do so. The Bow Street magistrates, *The Examiner* commented on 22 October, 'appear as partisans rather than judges.' On 29 October, *The Examiner* made a pointed in-versus-out-group juxtaposition between the character of a man accused of tumult, singing, and having worn OP insignia and the character of an informant that Bow Street officers used in their attempts to convict him. Mr T. Russell, the accused, was described as the 'nephew to a most respectable tradesman in Westminster.' Abraham Mark Braham, the witness of his supposed crimes, was described as 'a Jew broker of furniture and salesman.' A month later, and with OPs having been ordered to find bail for booing, dancing, singing, using rattles, coughing, sneezing, and making speeches, *The Times* wryly noted that 'the presence of the party of Old Prices was only occasionally evinced by a trifling *hiss*; which now seems to be deemed the only *legal* methods of expressing disapprobation.'⁵⁵ The emphases here are indicative of how *The Times* had repositioned itself since 18 September, for they suggest an editorial belief that something was seriously amiss with the 'legal' apparatus if 'a trifling *hiss*' was the only disapproving action a theatregoer could make in order to avoid arrest.

The Morning Post saw matters rather differently. The paper was, Baer argues, 'slavishly Tory' and rarely took against the Covent Garden Theatre management.⁵⁶ I can find little at fault with this position. Reports on the OP war published in the *Morning Post* portray OPs arrested by the police as irritating members of a 'self-denominated "Public"' disturbing the peace, harmony, and attention of the true public.⁵⁷ OPs and theatregoers alike were well aware of this characterisation of the protesters as 'rebels.' Indeed, one of the many placards they erected on the subject read 'The Times and Post are bought and sold, By KEMBLE's pride and KEMBLE's gold.'⁵⁸ *The Times* rejected this accusation both directly and in their editorial position over the coming months. The *Morning Post*, on the other hand, cared little and continued to

⁵⁵ Reports suggest that in late-November 1809 numerous arrests for making noise were made without clearly verifying the identity of the offender; see for example *The Times*, 23 November 1809.

⁵⁶ Baer, *Theatre and Disorder*, 113.

⁵⁷ *Morning Post*, 1 December 1809.

⁵⁸ *The Times*, 11 October 1809.

vigorously defend the actions of the management. When James Thomas, a man they had described as having possessed a 'dirty appearance,' was brought before the Bow Street magistrates on 2 December, the *Morning Post* eagerly presented his sarcasm and insolence as evidence of the OPs' lack of propriety, gentility, and good sense. But this exchange also reveals a great deal about how the London public responded to the actions of agents of the legal system during the autumn of 1809. It is to James Thomas, and the narrative the *Morning Post* chose to mock, that we now turn.

IV "I must say, my blood boils in me" – Responses to the Legal System

James Thomas was seized on Friday 1 December. The press disputed the extent of the disturbance he had partaken in. *The Times* thought the uproar little more than that which 'generally accompanies a piece that is not popular.'⁵⁹ *The Morning Chronicle* reported that much of the last two acts of *A Cure for the Heart Ache* and *The Jubilee*, the afterpiece, were 'overwhelmed by the noise that prevailed in the house.'⁶⁰ *The Morning Post* considered the noise mere interruptions that 'were neither loud nor long.'⁶¹ All agreed, however, that a man, identified by *The Times* and *Morning Post* as James Thomas, was taken to Bow Street by James Brandon for, variously, having 'ventured to display' the initials O.P. in his hat (*Morning Chronicle*), 'brandishing a stick over his head in a threatening manner, as if bidding defiance to the authority and powers of the Officers' (*The Times*), and having been the first to attempt to disturb the entertainments (*Morning Post*). By the time of his arrival at Bow Street, the magistrates had retired for the evening. Thomas spent the night in the watch-house and was not examined until the following morning. On Monday 4 December the *Morning Post* featured a lengthy report on Thomas' examination. His exchange with Justice Graham was recorded as follows:

The Clerk to the Prisoner – "What is your name?"

Prisoner – "James Thomas"

⁵⁹ *The Times*, 2 December 1809.

⁶⁰ *Morning Chronicle*, 2 December 1809.

⁶¹ *Morning Post*, 2 December 1809.

Clerk – “What are you?”

Prisoner – “That is no matter”

Mr GRAHAM, the Sitting Magistrate, to Prisoner – “Do you not consider yourself in the pit of Covent-Garden Theatre?”

Prisoner – “I do not”

Clerk – “Where do you live?”

Prisoner – “Here.”

Clerk – “Where do you reside?”

Prisoner – “I did live in Argyle-street.”

Graham – “Do not tell us where you did reside, but where your residence is now.”

Prisoner – “I do not think it a fair question, therefore shall not answer.”

Clerk – “What are you?”

Prisoner – “A man!”

Clerk – “You are a very rude man.”

Graham – “You are much mistaken, if you think this kind of rude behaviour can do you any good”

Prisoner – “I am not rude.”

Together with an accompanying report that included Thomas’ probing cross-examination of his accuser, James Brandon, this exchange played into the theatrical reporting of the riots often seen in the *Morning Post*.⁶² Yet it appeared on the same day in near identical form in both *The Times* and, with the exception of the exchange above (replaced with ‘He gave his name as “James Thomas,” but refused to state his residence’), the *Morning Chronicle*; this in spite of the three papers disagreeing on why and in what context Thomas was arrested.

Whether it was true or not, this was the story that entered the public domain. Removed from the pro-management master narrative the *Morning Post* put forth, Thomas’ defiant appearance at Bow Street takes on a witty, daring, and intelligent quality that encapsulates many of the frustrations evident in public responses to

⁶² Baer, *Theatre and Disorder*, pp. 113–114.

the activities of constables, magistrates, and justices during the OP war. Indeed, the letters that were written to newspapers, the speeches that were given in the theatre, the placards that were hoisted, the mock playbills that were circulated, and the insignia that were proudly displayed collectively indicate a profound frustration with the legal establishment. With these expressions of frustration increasingly suppressed, the metropolitan newspapers were, by the time of Thomas' arrest, a vital platform through which the OPs could respond to the legal system and sustain and legitimise their cause. This final section explores responses to the legal system expressed inside Covent Garden Theatre, at sites of justice, and in the public press.

At the beginning of the OP conflict, some two and half months prior to James Thomas' verbal altercation with Justice Graham, most acts of OP protest took place within Covent Garden Theatre. Speeches were one method by which OPs articulated their complaints. On the second night of the OP war, a gentleman sat in one of Kemble's new and controversial private boxes rose to address a Bow Street officer. 'You should not be too busy,' began *The Times* report of his speech published 21 September 1809:

You are certainly a useful man in your situation, but in this instance you appear to me to be out of your latitude. Your business is to prevent public depredations; but at present, it appears to me, you have changed your usual plan, and that you are now assisting robbers, and taking the robbed into custody.

Two days later Kemble addressed the audience. They were palpably loyal to King and country and had earlier that night sung *God Save the King* and hoisted placards that read 'Support King George, resist King Kemble.' But loyalism should not be confused with deference. The OPs were suspicious of legal authority and evidently unhappy with the appointment – by the management – of the Governor of the Bank of England to head a committee tasked with the inspection of Covent Garden Theatre's finances. The uproar 'became more violent than ever' when Kemble, in an effort to demonstrate (as he put it) 'how much we wish for impartial justice,' named the

Attorney General as a member of committee.⁶³ The establishment and the crowd were at odds.

During the second week of October 1809, the noted lottery proprietor Thomas Bish used the newspaper press to articulate his accusation that the theatre management were paying Jewish boxers to suppress the OP war.⁶⁴ After offences as trivial as mock sneezing and nose blowing led to court arrest within the theatre, OPs turned to letter writing in protest. John Tackle complained of having received beatings from Jewish men and having been a victim of false arrest in a letter published by both *The Times* and the *Morning Chronicle* on 12 October. Three days later *The Examiner* summarised his tale.

It is notable that acts of protest began to shift to newspaper publication as Jewish pugilists became more prominent as enforcers of the will of the Covent Garden Theatre management. These boxers first entered the theatre on 6 October and remained active until 14 October.⁶⁵ Such was the ferocity of this period that some theatregoers appeared to yearn for the return of Bow Street authority. One letter writer remarked at:

The absurdity of an attempt to restore the tranquillity of the Theatre, by confiding the preservation of it not to the established Police, but a class of persons who notoriously subsist by a violation of the laws of their country.⁶⁶

If Bow Street were trusted by some to uphold the basic tenets of the law, they were criticised by others for their favour towards the tactics of the management. Discrepancies in bail conditions was one complaint. In a letter to the *Morning Chronicle* that

⁶³ *The Times*, 23 September 1809.

⁶⁴ *Morning Chronicle*, 12 October 1809; In the same letter Bish admitted to having asked his employee James Andrews, who we have seen, to distribute handbills containing the same accusations. This is one of a number of letters by Bish that were published in the metropolitan press.

⁶⁵ For a detailed account of this phase of the riots, a phase characterised in the contemporary mind by the presence of Jewish pugilists in Covent Garden Theatre, see J. Baker, 'Jewishness and the Covent Garden OP War: Satirical Perceptions of John Philip Kemble,' *Nineteenth-Century Theatre and Film* 40.1 (2013).

⁶⁶ *The Times*, 12 October 1809.

responded to activities during the Jewish phase of the riots, 'FAIR JUSTICE' wrote on 11 October that:

As a lover of *impartial* justice, I should be glad to know why the Magistrates of Bow-street demand bail to the amount of 800l., that is 400l. the offender, and 400l. his sureties, of such persons as are accused of opposing the Proprietors' demands, and accepting from the Author of the Blind Boy, (accused of riotous conduct in *support* of the Managers), 40l. i.e. himself 20l. and Mr. Brandon (the oathtaking Box-keeper) 20l.⁶⁷

Days later, a letter from 'A CONSTANT READER' published in the *Morning Chronicle* criticised both the magistrates and officers from Bow Street – the latter for having allowed 'a notorious Prize-fighter' to 'publicly and repeatedly' challenge 'the whole House to fight' in their presence, the former for not having taken 'cognizance of this matter.'⁶⁸

During this phase of the riots, arrests in the theatre became a common topic for newspaper correspondents. 'I made application to several Constables in the Theatre, not one would return to the Pit with me to secure the offenders,' read a letter published in *The Examiner* on 15 October 1809, 'Is it not therefore evident, Sir,' one 'HUMANITAS' continued, 'that these ruffians must have been hired?' A day later *The Times* carried a letter from a member of the public whose speech had the previously evening caught the attention of the Bow Street officers in attendance. Thwarted in their attempts to arrest him 'the officers of the *justice* seized a Gentleman,' the author wrote with disgust, 'who took no part whatever in the affair.' The pseudonymous 'A FRIEND TO JUSTICE' had been, until he witnessed this seemingly unwarranted arrest, offering some words in support of the management.

With the departure of the Jewish pugilists, the violence subsided. Yet Bow Street officers continued their arrests. Many OPs saw these arrests as indiscriminate and situated their experience in relation to ancient precedent. J. Lorraine wrote on 19

⁶⁷ *Morning Chronicle*, 13 October 1809.

⁶⁸ *Morning Chronicle*, 16 October 1809.

October that 'I want to know on what grounds the Magistrate commits persons, who use only the modes of expressing disapprobation, which have been practised since the very first invention of the drama by the Greeks.' One individual, who Lorraine witnessed the arrest of, was the aforementioned Mary Austin. 'Sir,' he continued, 'I must say, my blood boils in me, as a Briton, at the very idea of a young woman's being sent to prison, for only springing a child's rattle in the one-shilling gallery of Covent-garden Playhouse.'⁶⁹

Mary Austin had been arrested on Monday 16 October 'charged with springing a small rattle in the one-shilling gallery, and exciting disturbance on the part of those around, by her pernicious example.' These grounds contrasted with reports of her deposition, in which she claimed to have been handed the rattle, knew not that it might cause harm, and respectfully stated, according to *The Times* on 21 October, that 'the Magistrates were at liberty to do what their wisdom might direct.' Committed for want of bail by Magistrate Read, the treatment of this young servant clearly aggravated the OP community.

Whether or not her testimony and the subsequent reporting of it were true, for a brief period Mary Austin became a martyr. Her status is recorded in the list of names against funds pledged to a subscription 'for the assistance of PERSONS considered UNJUSTLY PROSECUTED by the PROPRIETORS and MANAGERS of COVENT GARDEN THEATRE.' The idea of a subscription list in support of less wealthy OPs was first floated in the public press (*The Times* at first) by the anonymous 'Publicola' on 21 October, the day after the appearance of Lorraine's letter. The following week, the same paper carried an advertisement that announced the establishment of the list, the locations where money could be left, and an initial subscription of £58 18s. Following the lead set by Publicola, wealthy supporters of the OPs pledged anonymously as 'An Enemy to hired Ruffians,' 'F.H.,' and 'Box keeper's oath.' The fund quickly mushroomed: £79 9s. 6d. was pledged by 30 October, £152 11s. 7d. by 1 November, £184 18s. 1d. by 3 November, £248 13s. 7d. by 6 November, and £339 9s. 7d. by 13 November. It crossed the £400 mark on 23 November. As the subscription

⁶⁹ *The Times*, 20 October 1809.

grew, so too blossomed the wit, topicality, and sense of drama of the names used to pledge funds: 'The KEY to the Private Boxes' on 30 October, 'A Christian recovering from the wrath of a Jew' on 1 November, 'A peep through the pigeon-holes' and 'An Enemy to partial Justice – Read this' (a pun on Magistrate Read) on 3 November, 'Query: Are Private Boxes allowed by the Patent' on 4 November and so on. It is here that Austin appeared, once on 30 October in a pledge from 'Mary Austin's Rattle' and again on 1 November in a pledge from 'The Sale of a Rattle.' Her arrest then was a symbol of a line having been crossed, of an affront to the ancient privileges of theatregoers.

The funds secured and volume of subscriptions collected suggest the list was some success. It was organised by committee, and James Powell of Grove Place, Camden Town – a sometime complainant over the appearance of Jewish boxers in the theatre – was its secretary. Powell was a passionate advocate of the OP cause and on 8 March 1810, long after the dispute had ended, he sent a public notice to the metropolitan press that stated:

ALL PERSONS having any claim upon the above Fund for LEGAL EXPENCES incurred in regard to their Defence, and who have not yet sent in their Claims, are requested to deliver the same on or before the 25th of this present Month, to Mr. William West, Attorney, No. 14, New Boswell-court, Lincoln's Inn, otherwise they will lose the benefit of the said Fund, as the accounts will be at that time closed.⁷⁰

William West added further legal expertise to the OP committee, much needed given the propensity for Bow Street to seek arrest. Thomas Tegg, a bookseller, printer, stationer and print seller based on Cheapside was another prominent committee member. Tegg's shop was one of the premises used to accept subscription list payments,

⁷⁰ O. P. Riots. Exhibitions. – Panoramas. – Peace Jubilee and Sundries. 1809–1814. 1809–1814. MS Radical Politics and the Working Man in England: Part Two: Sets 47–49, 51–53, 55–63, and 65–72 Set 59; Vol 2. British Library, 30. Nineteenth Century Collections Online. Web. 14 Oct. 2014. <http://tinyurl.com/tinurl/Ktan6>

and his expertise in advertising and publishing was valuable to the OP cause. Ever the opportunist, Tegg exploited the conflict for profit by publishing many satirical prints and, in the aftermath, a book reflecting on events of autumn 1809.⁷¹

The subscription list, the experience in public arenas of its committee, and the way the list was used by OPs to communicate ideas, messages, grievances, and humour offer an instructive example of how OPs and their supporters responded to the actions of the legal system by moving a significant element of the conflict outside of Covent Garden Theatre. This means of protest was a direct response to how OPs were policed as threats to public order and security and it became a vital and flexible discursive forum. A letter from A LOVER OF JUSTICE was published in *The Times* on 23 October that stated triumphantly:

After the despicable means that have been resorted to by the Managers of Covent-Garden Theatre to support the ungracious and unseasonable demands on the public, I should not wonder if similar attempts have been made to stifle the Liberty of the Press. That, however, in spite of all their efforts, will, I trust, remain open and pure. This is the only resource left for poor John Bull. It may be called the bugle-horn of his grievances – a bugle, that all the Jews, prize-fighters, and thief-takers cannot silence.

Here, once more, guardianship of the legal system was conflated with suppression, thief-takers with prize-fighters. The injustices inflicted were debated outside the theatre and beyond into late-November, and the press would remain a vital outlet for the OP cause. A letter from 'AN ENGLISHMAN' published in *The Times* 20 November 1809 read:

I am sorry to perceive, Sir, that *fighters* are still sent into the Theatre; and I find that now they do not hesitate to knock down all before them. It is notorious that orders are issued every morning to various persons, who, in

⁷¹ Tegg, *The O. P. War*. For his style of business see J. Barnes and P. Barnes, 'Reassessing the Reputation of Thomas Tegg, London Publisher, 1776–1846,' *Book History* 3 (2000).

the evening, are collected in a body, and introduced into the Theatre with directions "*not to be very nice*" with such as dare to express their disapprobation to the conduct of the Managers. I am far from being one who would encourage or assist the least disturbance in a Theatre, or any other place; but I cannot help thinking that the conduct of some persons, from the time of opening the Theatre, up to this moment, has been such as the public at large can never sanction or approve.

OPs, theatregoers, and those – like this letter writer – merely sympathetic to their cause discussed in newspapers not only the OP war itself, but also how the agents of the legal system had acted in response to the protests at Covent Garden Theatre during the autumn of 1809. Although removed from the original place of conflict, their rebuke and dismay in this arena was as palpable as the physical manifestations played out inside Covent Garden Theatre.

We, of course, must keep in mind that the *Examiner*, *Morning Chronicle*, and *Times* needed little motivation to publish letters that supported press freedoms, that preached non-violence, and that showed public appetite for the OP cause. These newspapers were partial witnesses to the OP war. Yet it is notable that even these partial witnesses published reports and letters that highlighted public sensitivity towards to press partiality, a sensitivity born out of the value OPs ascribed to the press as a forum for debate. Proprietors of the *Morning Chronicle* no doubt delighted in publishing on 12 October details of placards raised in Covent Garden Theatre the previous night that had read 'No wonder the POST condemns JOHN BULL's Placards, when it lies, thick and thin, in support of Jew Blackguards.' But this reporting of public sensitivity to press bias worked both ways. We have already observed that *The Times* brought claims that it was in favour of the management, claims it disputed, to the attention of its own readers. Though it did so in this case to dismiss those claims, on 3 November the same paper published in full a notice on the OP subscription that included funds left under the pseudonym 'Camelion-like, *The Times* their optics

threw on Kemble's gold, and instant changed their hue.' No editorial claims to the contrary accompanied the notice.

Censoring these lines would have been futile. Public feeling had reached a head the previous evening. Early that day, the Grand Jury found only those indictments against OPs that involved damage to property and to the theatre: 'all the Bills for making a noise, of whatever nature, were thrown out.'⁷² Emboldened by both this legal victory and the continued outcry against the coercive tactics employed by both the Covent Garden Theatre management and Bow Street, OP resistance and disorder within Covent Garden Theatre returned to levels not seen since early-October. At half-price, a quiet house was flooded with OPs who wore insignia in their hats, carried fresh placards, and in many cases began mock fights and to run along the benches in the pit. 'Not a word of the last two acts of *The Grecian Daughter*, or of any part of *The Turnpike Gate*, was heard' reported the *Morning Chronicle*.⁷³ At the end of their performance, the OPs left 'huzzaing' in 'procession two and two.' They passed through Bow Street and onto the Strand where *The Times* reported 'they have three loud cheers at the Chronicle office, and three ditto groans at the *Morning Post* office.'⁷⁴ The next night at Covent Garden Theatre the sentiment endured and the OPs delighted in 'groaning for those newspapers which are inimical to *their* objects, and cheering those which favour them.'⁷⁵

As the agents of the legal system (and their various hired hands) intensified their efforts to police Covent Garden Theatre and to establish the transgressive agenda of the theatre's management, newspapers became more than a venue for reports on the Covent Garden Old Price riots. They became a space – alongside Covent Garden Theatre, Bow Street, and the courts – where the law and its agents were made visible, debated, and judged. The reports on the legal system and responses to their actions in the form of the letters and notices that these newspapers carried do not constitute a complete, dispassionate, or undistorted record of the conflict. How distorted this

⁷² *Morning Chronicle*, 3 November 1809.

⁷³ *Ibid.*

⁷⁴ *The Times*, 3 November 1809.

⁷⁵ *The Times*, 4 November 1809.

coverage was outside of the purview of this study. Nevertheless, it is worth noting that the fragments of the judicial records that survive aid us little in this regard. They tell us that, for example, Richard Raper was committed to Bridewell 'on Oath of James Brandon with making a Riot and Disturbance in Covent Garden Theatre.'⁷⁶ They suggest that Brandon – the Covent Garden Theatre doorman – took an active role pursuing cases from Bow Street to the Westminster Quarter Sessions on behalf of his employer, including those of James Black, Thomas Scott, and the aforementioned Samuel Dudfield.⁷⁷ They also indicate that whilst OPs accounted for a surge in the numbers of prisoners delivered to the Westminster Quarter Sessions for riot and disorder in October 1809, riot and disorder was already and would remain a significant category of offence (numerically behind only assault and theft) for which prisoners were delivered to both the Middlesex and Westminster Quarter Session throughout 1809.⁷⁸ In short, although revealing in terms of the functioning of justice, the surviving judicial record does not help us explore perceptions of the law and of how agents of the law responded to events at Covent Garden Theatre during the height of the Old Price riots.

The strength, therefore, of the periodical record, dispassionate or otherwise, is that it enables us to grapple with the fragility of the social contract between the legal system and theatregoing Londoners. As the relationship worsened between owners and patrons, between guardians and subjects, it would become clear that more than the grievances of the OPs were at stake. On 4 November 1809 the *Morning Chronicle* published a letter from a self-styled 'MODERATOR.' 'In the name of BRITISH FREEDOM,' she wrote:

Are we to have BOW-STREET OFFICERS, BUM-BAILIFFS, AND OTHER
CATCHPOLES PRESIDING AT ELECTIONS, SEIZING THE INHABITANTS

⁷⁶ London Metropolitan Archives, WJ/SP/1809.

⁷⁷ London Metropolitan Archives, WJ/SB/B/0597.

⁷⁸ Sessions Rolls for the Westminster and Middlesex Session of the Peace can be fruitfully sampled to gain a sense of the types of offence brought to these legislative arenas. London Metropolitan Archives, (Middlesex) MJ/SR/3798, 3800, 3803, 3805, 3807, 3810; (Westminster) MJ/SR/3797, 3802, 3809, 3812.

OF WESTMINSTER, AND DRAGGING THEM TO THE OFFICE OF THE MAGISTRATES, FOR WEARING COCKADE, OR SURROUNDING WITH THE USUAL CRIES AT THE HUSTINGS IN COVENT-GARDEN? What, Sir, are to be the limits of the doctrines advanced upon this subject, and to which do they not obviously and necessarily tend?

In contrast to the letter that opened this article, a letter published on 18 October and specific to the OP war, MODERATOR addressed the very nature of liberty and the freedoms enjoyed by free-born Englishmen. Taking the OP war as a microcosm for wider social, political, and cultural concerns,⁷⁹ she used the letter to single out the law, the agents of the legal system, and establishment co-option of both in the name of public order and national security as the biggest threats to 'British Freedom.' Her letter is perhaps somewhat hyperbolic but, together with the reports on the legal system and the public responses to their actions that this article has discussed, it underscores the contemporary perception among a literate, theatregoing, but nevertheless multi-class group of Londoners that the impartiality of justice had been eroded and that this erosion was to the disadvantage of the many Britons and to the benefit of the fashionable elites; that common interests had been sacrificed to the advantage of the interests of the few.

The OP war ostensibly addressed the price of public entertainment, the nature and arrangement of public spaces, and the forced imposition of novelty. Yet, as the protest diversified, as policing and justice was perceived as ever more partial, and as affronts to freedoms escalated, the Covent Garden Old Price riots became a peculiar urban conflict that intersected with wider late-Georgian concerns, with discursive arenas where British liberty and the freedom of her subjects were at stake. Taken together, the fact that law, policing, and justice were prominent among these

⁷⁹ MODERATOR was not alone in seeing the OP war as a microcosm of wider concerns. The Whig MP William Windham wrote in a letter to his private secretary Thomas Amyot in 18 December 1809 that 'I am the more alive, I suppose, to this defeat of the managers, because I see it as a rehearsal of what is meant for higher performance; the managers being the government; the new prices the taxes [...] and the O.P.s exactly the same description of persons as at present; L. S. Benjamin (ed.), *The Windham Papers*, 2 vols. (London: Herbert Jenkins, 1913), II, pp. 366.

concerns and that the OPs and their supporters – hardly radicals in their behaviour and outlook – were dogged in their use of disorder and public pronouncements to protest the injustices they alleged, reveals a fractured consensus regarding the rule of law in the liberty of the subject and the extent to which law and liberty were available for reinterpretation.

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